IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No.1256 of 2005 (M/B)

Raghubir Singh s/o Shri Sundar Lal,
R/o 26, E.C. Road, Dehradun
District Dehradun ……. Petitioners

Versus

1. State of Uttaranchal
through Collector, Dehradun,
District Dehradun.
2. Tehsildar Sadar, Dehradun,
District Dehradun.
3. Punjab and Sindh Bank Branch,
A.K. Road, Dehradun through its
Branch Manager, District Dehradun. ……. Respondents

…….

Sri Lok Pal Singh, Advocate for the petitioners.
Sri Subhash Upadhyaya, Standing Counsel for respondents 1 and 2.
Sri V.K. Kohli, Senior Advocate with Sri I.P. Kohli, Advocate for respondent no. 3.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

RAJEEV GUPTA, C.J. (Oral)

Sri Lok Pal Singh, Advocate for the petitioner.

Sri Subhash Upadhyaya, Standing Counsel for respondents 1 and 2.

Sri V.K. Kohli, Senior Advocate with Sri I.P. Kohli, Advocate for respondent no. 3.
They are herd.

2. Petitioner Raghubir Singh has filed this writ petition for the following reliefs:

"i. issue a writ, order or direction in the nature of certiorari quashing the citation/demand notice contained annexure no. 2 issued by the respondent no. 2 And further be pleased to direct the respondent no. 3 to receive the remaining amount from the petitioner in easy instalments.

ii. Any other relief, which this Hon'ble Court may deem fit and proper in the circumstances of the case be passed in favour of the petitioner.

iii. Cost of the petition be awarded in favour of the petitioner."

3. During the pendency of the writ petition, following interim order was passed on 29.10.2005:

> " Mr. J.P. Joshi, Addl. Chief Standing Counsel for the State of Uttaranchal accepts notice for respondents nos. 1 and 2. Notice be sent to respondent no.3.
>
> The recovery proceedings pursuant to the impugned recovery certificate (Annexure-2) will stand stayed for a period of six weeks, if the petitioner deposits, with the third respondent Bank a sum of Rs. 10,000/- within one month from today."

3. The learned counsel for the petitioner submits that the amount of Rs. 10,000/- as was directed vide order dated 29.10.2005 has been deposited by the petitioner within the stipulated period of one month.

4. Sri Lok Pal Singh, the learned counsel for the petitioner, submits that through the petitioner has not disputed that the loan was taken by him and that he has committed default in repayment of loan, the petitioner being a person of limited means, the amount due may be realized from the petitioner in easy instalments.

5. As the matter arises out of a loan transaction between the petitioner and respondent no.3-Bank, it is not open to the Courts to fix instalments.

6. However, we leave it open to respondent no.3-Punjab and Sindh Bank to consider the petitioner's request of easy instalments sympathetically in view of the petitioner's poor economic condition.

7. With the above observation, the writ petition stands disposed of.

(Prafulla C. Pant, J.) 26.06.2006

(Rajeev Gupta, C.J.) 26.06.2006

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